Lennard Hutchinson
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For Defendant,
Lennard Hutchinson
Doing Business as Hutchinson & Hutchinson
Elextrical Construction

FILED
08 DEC 15 AM 9:53
RICHARD W. WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

NORTHERN CALIFORNIA IBEW 595-NECA TRUST FUNDS; ELECTRICAL INDIUSTRY SERVICE CORPORATION; VICTOR UNO In His Capacity as Trustee of the IBEW 595 TRUST FUNDS and Officer of the EISC; and DON CAMPBELL In His Capacity as Trustee Of the IBEW 595 TRUST FUNDS and Officer Of the EISC,

Plaintiffs.

v.

HUTCHINSON & HUTCHINSON ELECTRICAL CONSRUCTION, INC., a California Corporation, and LENNARD HUTCHINSON, Individually, d/b/a HUTCHINSON & HUTCHINSON, INC., And/or HUTCHINSON & HUTCHINSON Electrical Construction,

Defendants.
_____/

CASE NO. C08-05114 SC

ANSWER TO UNVERIFIED COMPLAINT

Comes now Defendant, HUTCHINSON & HUTCHINSON ELECTRICAL CONSRUCTION, INC., a California Corporation, and LENNARD HUTCHINSON, Individually, d/b/a HUTCHINSON & HUTCHINSON, INC., and/or HUTCHINSON & HUTCHINSON Electrical Construction. Hutchinson & Hutchinson is not an existing corporation. Lennard Hutchinson is doing business as Hutchinson & Hutchinson.

Paragraphs Denied On Knowledge

Defendants denies each and every allegation contained in paragraph 1, particularly, plaintiff's allegation it is bringing this action to collect delinquent fringe benefit contributions on behalf of itself and an employee of this defendant, paragraph 2, particularly that Plaintiff brings this suit on behalf of employees who were employed by this defendant as electricians on the Alameda County Juvenile Justice Center, in San Leandro, California or any other project in the Bay Area, paragraph 3, in that the jurisdiction of this court is not invoked pursuant to section 502 and 515 of the Employee Retirement Income Security Act of 1974, federal jurisdiction is not otherwise invoked, paragraph 9, particularly that Defendant is a corporation, paragraph 10, in that the relevant time(s) is not specified and Defendant is not a corporation, paragraph 11, paragraph 12, paragraph 13, paragraph 16, paragraph 17, particularly that this defendant owes $24,079.39, or any amount under the terms of the Local 595 collective bargaining agreement or any agreement, that this defendant owes any amount in required fringe benefit contributions, that this defendant owes any amount in liquidated damages, and/ or that this defendant owes any amount in interest for any period, paragraph 18, paragraph 20, particularly that this defendant has failed and refused to make ay legitimate payments to the Trust Funds or that this defendant is obligated to make any such payments, or that plaintiffs are entitled to receive any such payments under any trust agreement and / or pursuant to federal law.

Paragraphs Denied On Information And Belief

This defendant does not have sufficient information upon which to base an admission or denial with regard to paragraphs 4, 5, 6, 7, 8, 14, 15, and 19, and on that basis denies each and every allegation contained therein.

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Affirmative Defenses

1. As a first and separate affirmative defense, Defendant alleges that the Complaint fails to state a cause of action.

2. As a second and separate affirmative defense, Defendant alleges that the injuries plaintiff complains of resulted from the acts and/or omissions of others without any fault on the part of this defendant.

3. As a third and separate affirmative defense, Defendant alleges that this action is time barred by the applicable statute(s) of limitations.

4. As a fourth and separate affirmative defense, Defendant alleges that this action is time barred by doctrine of laches.

5. As a fifth and separate affirmative defense, Defendant alleges that defendants failed to mitigate their damages.

6. As a sixth and separate affirmative defense, Defendant alleges that there was not a meeting of the minds between this Defendant and any of the Plaintiffs.

7. As a seventh and separate affirmative defense, Defendants allege that there was no enforceable agreement between Defendants and plaintiff.

8. As an eighth and separate affirmative defense, Defendants allege that Plaintiffs were not injured in the transaction and they received more than they bargained for.

9. As a ninth and separate affirmative defense, Defendants allege that Plaintiffs failed to manage the ERISA plans for the exclusive benefit of participants and beneficiaries;

10. As a tenth and separate affirmative defense, Defendants allege that Plaintiffs failed to carry out their duties in a prudent manner and refrain from conflict-of-interest transactions expressly prohibited by law;

11. As an eleventh and separate affirmative defense, Defendants allege that Plaintiffs failed to comply with limitations on certain plans' investments in employer securities and properties;

12. As a twelfth and separate affirmative defense, Defendants allege that Plaintiffs failed to fund benefits in accordance with the law and plan rules;

13. As a thirteenth and separate affirmative defense, Defendants allege that Plaintiffs failed to report and disclose information on the operations and financial condition of plans to the government and participants; and

14. As a fourteenth and separate affirmative defense, Defendants allege that Plaintiffs failed to provide documents required in the conduct of investigations to ensure compliance with the law.

Prayer

Defendants pray as follows:

1. That This court find that this Defendant did not breach the terms of any collective bargaining agreement;

2. Plaintiffs take nothing by their complaint;

3. That this court enter judgment against Defendants and in favor of Plaintiff;

4. For damages according to proof;

5. Attorney's fees and costs;

6. Such other and further relief as the court may deem appropriate.

Dated: Dec 13 2008

Lennard Hutchinson, dba
Hutchinson & Hutchinson Electrical Contractors

PROOF OF SERVICE

I declare under penalty of perjury under the laws of the State of California as follows:

I am at least eighteen (18) years of age.

[x] I am a resident of the State of California, County of Alameda or [] other _____.

[ ] I am employed in the State of California, County of Alameda or other [] _____.

[x] I am a United States citizen.

On December 13, 2008 I served the following documents ANSWER TO COMPLAINT and supporting papers on [] plaintiff(s) [] petitioner(s) [] appellant(s) [] crosscomplainant(s) [] counter-claimant third-party plaintiff [x] defendant(s) [] respondent(s) [] cross-defendant(s) [] counter-defendant(s) [] third-party defendant [] other _____ by placing said documents in an envelope and depositing said envelope in the United States mail at County with first class postage affixed addressed as follows:

[] Via hand delivery to:

Shawn C. Groff
Leonard Carder LLP
1330 Braodway, Suite 1450
Oakland, California 94612

I declare under penalty of perjury that this declaration was executed on December 13, 2008 in ALAMEDA County.

_____ (print)

_____ (signature)